UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ANTOINE MEEKS, JR.,	)	
	)	
Movant,	)	
	)	
v.	)	No. 4:16-CV-1041 (CEJ)
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

MEMORANDUM

Before the Court is the motion of Antoine Meeks, Jr. to vacate, set aside, or correct his sentence, filed pursuant to 28 U.S.C. § 2255. The United States has not filed a response.

I. Background

After pleading guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), Meeks was sentenced to an 84-month term of imprisonment. At sentencing, the Court determined that Meeks's base offense level was 20 because he had he had a prior felony conviction for a controlled substance offense. *See* U.S.S.G. § 2K2.1(a)(4)(A).[1] The guideline range for imprisonment was 84 to 105 months.

II. Discussion

Meeks first argues that the Court should vacate his sentence because his sentencing enhancement is invalid in light of *Johnson v. United States*, 135 S. Ct.

[1] Section 4B1.2(b) defines a controlled substance offense as "an offense under federal or state law, punishable by imprisonment for a term exceeding one year, that prohibits the manufacture, import, export, distribution, or dispensing of a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with intent to manufacture, import, export, distribute, or dispense." Meeks had a prior state court conviction for distributing oxycodone.

2551 (2015). In *Johnson*, the Supreme Court held that the residual clause of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), was void for vagueness. The decision in *Johnson* is inapplicable here because Meeks was not sentenced under the ACCA.

In *Beckles v. United States*, 137 S. Ct. 886 (2017), the Court held that the Sentencing Guidelines are not subject to a void-for-vagueness challenge under the Due Process Clause, and more specifically, that the "crime of violence" clause of U.S.S.G. § 4B1.2(a) is not void for vagueness. Thus, *Beckles* affords no relief to Meeks.

Meeks also contests the calculation of his offense level and criminal history points as set forth in the presentence report.[2] The issue of whether the Court misapplied the sentencing guidelines is one that could have been raised on direct appeal. As such, Meeks cannot this claim in a proceeding under § 2255, absent a showing of cause and prejudice. *See Boyer v. United States*, 988 F.2d 56, 57 (8th Cir. 1993); *Reid v. United States*, 976 F.2d 446, 447 (8th Cir. 1992), *cert. denied*, 507 U.S. 945 (1993) [*citing United States v. Frady*, 456 U.S. 152 (1982)]. Because Meeks has not made the requisite showing, the Court will not consider his challenge to the calculation of the guideline range. *See Auman v. United States*, 67 F.3d 157, 161 (8th Cir. 1995) (reasoning that section 2255 does not provide relief in cases with "garden-variety Sentencing Guideline application issues," which should be asserted on direct appeal).

[2] Meeks argues that (1) the report erroneously applied § 2K2.1(a)(2) to assign a base offense level of 24, (2) inadequate documentation and information was provided in the report for his prior controlled substance offense, (3) the § 2K2.1(b)(6) enhancement was improperly applied, and (4) his criminal history computation was inaccurate because he was improperly given an extra point for his conviction for receiving stolen property under $500. [Doc. #2 at 5–8].

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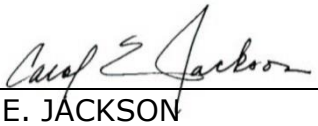
For the reasons discussed above, the Court concludes that Meeks is not entitled to relief under 28 U.S.C. § 2255 based on the claims he asserts in the motion to vacate. Therefore, the motion will be denied without a hearing. *See Engelen v. United States*, 68 F.3d 238, 240 (8th Cir. 1995). Additionally, the Court finds that Meeks has not made a substantial showing of the denial of a constitutional right. Therefore, no certificate of appealability will be issued. *See* 28 U.S.C. § 2253.

An order consistent with this Memorandum will be entered separately.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 14th day of July, 2017.